

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**ADMINISTRATIVE RULE  
FISCAL IMPACT STATEMENT**

**PROPOSED RULE:** 02-145

**DATE PREPARED:** Aug 22, 2002

**STATE AGENCY:** Office of the Sec. of Family and Social Services **DATE RECEIVED:** Jul 10, 2002

**FISCAL ANALYST:** Kathy Norris

**PHONE NUMBER:** 234-1360

**Digest of Proposed Rule:** This rule adds 405 IAC 2-10 to provide for the placement of liens on the real property of certain Medicaid recipients. This rule implements IC 12-15-8.5 as added by P.L.178-2002 (HEA 1196).

This rule allows the Office of Medicaid Policy and Planning (OMPP) to place a lien on real property valued in excess of \$125,000 of certain Medicaid recipients under specified circumstances. The lien is enforced if the property is sold or upon the death of the recipient. The proposed rule follows safeguards contained in federal and state law that require the affected individual to be deemed permanently institutionalized and be given an opportunity for a hearing before a lien may be placed on a property. No liens may be placed on a Medicaid recipient's home while a spouse or certain other individuals reside there. A lien may not be enforced if the recipient's spouse, parent, or certain children survive the recipient. Medicaid liens will also be subordinate to the subsequent security interest of a financial institution that loans money to a recipient for certain purposes including property expenses, operating expenses for a farm, business or income producing property, and the medical expenses of the recipient, his spouse or certain children.

**Governmental Entities:** *State Impact:* OMPP estimates that an average of 142 liens would be filed annually with county recorder offices. The fees for filing the liens are estimated to cost between \$11 and \$15 each. The total cost to file the liens each year is estimated be cost from \$1,562 to \$2,130. The state share of the cost would be \$781 to \$1,065 due to a 50% administrative match.

The enforcement of the liens is estimated to generate a maximum annual total recovery of \$667,000, or \$220,000 state dollars. This estimate may not represent new or additional recoveries of Medicaid expenditures. If the real estate remained in the Medicaid recipient's name at death, it is probable that the majority of the estimated recoveries could still be collected by means of an estate claim in the absence of a lien. The main advantage of the lien is that it secures the Medicaid claim in the event the property would be sold prior to the recipient's death.

There are no unfunded mandates placed upon any state agency by this rule.

*Local Impact:* The statute mandates that county recorders may not charge the OMPP a filing fee for releasing a lien in the event that the recipient is discharged from a medical institution and has returned home. This mandate does not require the county recorder to expend any funds. OMPP believes that this situation would rarely occur; limiting the loss of filing fee revenue to the counties. The statute also requires county recorders

to supply the Office with the legal descriptions of all real property owned by an affected Medicaid recipient if requested. This mandate does not require the additional expenditure of county funds.

**Regulated Entities:** This rule may result in the imposition of a lien on the home or other real property owned by a Medicaid recipient, potentially impacting some recipients financially. The individuals that will be affected are those recipients on whose property a lien is enforced resulting in the recoupment of Medicaid payments made on behalf of the recipient.

**Information Sources:** Office of Medicaid Policy and Planning, Michael Starsnick, (317)-232-2121.